

MARQUIS AURBACH

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Attorneys for Defendant City of North Las Vegas

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 GATHER COHEN,

Case Number:

10 Plaintiff,

11 vs.

12 CITY OF NORTH LAS VEGAS, a
13 Municipal Corporation and political
14 subdivision of the State of Nevada; DOES I-
X,

**DEFENDANT CITY OF NORTH LAS
VEGAS' NOTICE OF REMOVAL**

15 Defendants.

16 TO: THE UNITED STATES DISTRICT COURT, DISTRICT OF NEVADA

17 Defendant City of North Las Vegas ("Defendant"), by and through their attorneys of
18 record, Nick D. Crosby, Esq. and Jackie V. Nichols, Esq. of Marquis Aurbach, hereby gives
19 notice of removal of the above-captioned action from the Eighth Judicial District Court of
20 Clark County, Nevada, to the United States District Court for the District of Nevada. Removal
21 of this action is authorized under 28 U.S.C. §§ 1331, 1441, and 1446. The specific grounds
22 for removal are as follows:

23 1. Plaintiff Gather Cohen commenced this action against Defendant on July 24,
24 2022 (Complaint) based upon the alleged hostile work environment, harassment, and failure
25 to accommodate under the ADA (42 U.S.C. § 12112) and Nevada law. The Complaint was
26 filed in the Eighth Judicial District Court of the County of Clark, State of Nevada. A true and
27 correct copy of the Complaint are attached hereto as **Exhibit A**.

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1 2. City of North Las Vegas, is the defendant in the above-referenced action
2 commenced the Eighth Judicial District Court of the County of Clark, State of Nevada, Case
3 No. A-22-855845-C, and is now pending in that court.

4 3. Service of the Summons and Complaint was made on City of North Las Vegas
5 on August 3, 2022. A copy of the Summons and/or Affidavit of Service for the Defendant is
6 attached hereto as **Exhibit B**.

7 4. No further proceedings have been had in this matter in the Eighth Judicial
8 District Court.

9 5. The Complaint alleges that Defendant created a hostile work environment,
10 harassed, and failed to accommodate Plaintiff in violation of the ADA and Nevada law.

11 6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1331, in
12 that it is an action arising under 42 U.S.C. §§ 12112. Pursuant to 28 U.S.C. §1441, Defendant
13 is therefore entitled to remove this action to this Court.

14 7. Thirty days have not elapsed since the first Defendant, City of North Las Vegas
15 was served with the Complaint in this action. Copies of the Summons and Complaint are
16 attached hereto as **Exhibits A and B**, constituting all the papers and pleadings in the state
17 court proceeding.

18 8. As of this date, no other defendants have been served or entered an appearance
19 in this matter.

20 9. A true and correct copy of this Notice of Removal is being filed this date with
21 the Clerk of the Eighth Judicial District Court of Nevada.

22 ...

23 ...

24 ...

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Dated this 31st day of August, 2022.

By: /s/ Jackie V. Nichols
 Nick D. Crosby, Esq.
 Nevada Bar No. 8996
 Jackie V. Nichols, Esq.
 Nevada Bar No. 14246
 10001 Park Run Drive
 Las Vegas, Nevada 89145
 Attorneys for Defendant City of North Las Vegas

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **DEFENDANT CITY OF NORTH LAS VEGAS' NOTICE OF REMOVAL** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 31st day of August, 2022.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☒ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

James P. Kemp, Esq.
Kemp & Kemp, Attorneys at Law
7435 W. Azure Drive, Suite 110
Las Vegas, Nevada 89130
Attorney for Plaintiff Gather Cohen

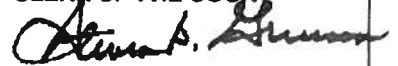
/s/ Krista Busch
An employee of Marquis Aurbach

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EXHIBIT A

Electronically Filed
7/24/2022 12:22 PM
Steven D. Grierson
CLERK OF THE COURT



JAMES P. KEMP, ESQUIRE
Nevada Bar No. 006375
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jp@kemp-attorneys.com
Attorney for Plaintiff Gather Cohen

CASE NO: A-22-855845-C
Department 29

DISTRICT COURT
CLARK COUNTY NEVADA

GATHER COHEN,

Plaintiff,

vs.

CITY OF NORTH LAS VEGAS, a Municipal
Corporation and political subdivision of the
State of Nevada; DOES I-X,

Defendants.

Case No.:

Dept. No.:

COMPLAINT

JURY TRIAL DEMANDED

Arbitration Exemption Claimed: Action
seeking equitable or extraordinary relief

COMES NOW THE PLAINTIFF, by and through his counsel, JAMES P. KEMP, ESQ., of
KEMP & KEMP, ATTORNEYS AT LAW, and states and alleges causes of action against the
Defendant(s) as follows:

I. JURISDICTION AND VENUE

The Court has jurisdiction over this case in that it arises out of events that took place in Clark
County, Nevada and venue is proper in this court because one or more of the Defendants reside in
Clark County, Nevada. The Plaintiff's claims herein seek damages in excess of the minimum
jurisdictional limit for actions in the District Court.

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1 **II. CLAIMS FOR RELIEF**

2 **ALLEGATIONS COMMON TO ALL CLAIMS**

- 3 1. This is a civil action for damages under state and federal statutes prohibiting discrimination and
- 4 to redress deprivation of rights under these laws.
- 5 2. Plaintiff's statutory claims arise under the Americans with Disabilities Act of 1990, as amended
- 6 by the 2008 Americans with Disabilities Act Amendments Act (ADA); and NRS Chapter 613.
- 7 3. As Plaintiff's employer during the relevant time period, Defendant was engaged in operations
- 8 and/or conducting business within the County of Clark, State of Nevada. Defendant City of
- 9 North Las Vegas was engaged in activities affecting commerce and employed at least 500
- 10 employees in the two calendar years preceding the events in question.
- 11 4. As an employer in Nevada, and/or other states, Defendants are required to comply with all state
- 12 and federal statutes which prohibit race and color discrimination, and retaliation.
- 13 5. Plaintiff, Gather Cohen, is a male citizen of the County of Clark, State of Nevada, who has been
- 14 employed by Defendants, at their City of North Las Vegas Police Department from
- 15 approximately February 2007 until the present. At all times mentioned herein the Plaintiff has
- 16 performed his work at or above a level that the Defendants had a reasonable right to expect.
- 17 Plaintiff is a qualified individual with a disability as defined by the ADA. Plaintiff is capable of
- 18 performing the essential functions of his job with or without a reasonable accommodation.
- 19 6. Defendant City of North Las Vegas (herein "CNLV") is a Municipal Corporation incorporated
- 20 in Clark County, Nevada under the laws of the State of Nevada including, but not limited to,
- 21 Article 8 of the Nevada Constitution.
- 22 7. DOE Defendants are persons the identity of whom are presently unknown to Plaintiff, but are
- 23 believed to have some responsibility and liability to the Plaintiff based upon the allegations set
- 24 forth herein. Plaintiff will seek to supplement or amend this Complaint upon the discovery of
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the true identity of any of these persons.

FACTS

8. Plaintiff has more than 15 years of experience as a Deputy Marshal with the CNLV Police Department.
9. Plaintiff has a property interest and liberty interest in his employment at CNLV Police Department.
10. Plaintiff began working for CNLV Police Department in approximately February 2007.
11. Plaintiff's job is as a Deputy Marshal.
12. Plaintiff has a service-connected disability, namely Post Traumatic Stress Disorder (PTSD), that he suffers as a result of his military service to the United States. This service-connected disability is a disability under the definitions set forth in the ADA and related regulations and case law because it substantially limits him in his activities of daily living including, but not limited to sleeping.
13. Sleep problems are a well known and well documented symptom of PTSD.
14. Defendant is on notice and well aware of Plaintiff's PTSD disability. In or about September 2019 Plaintiff told his supervisor, Sergeant Maya Winters, that he had a service-connected disability of PTSD that affected his ability to sleep. Frank DiGiovanni was present and witnessed this conversation. In that conversation Sergeant Winters asked questions and obtained information from Plaintiff about his service-connected disability and was interested in getting a service-connected disability established for her husband.
15. In June or July 2021 Defendant asked the Deputy Marshals, including Plaintiff, for volunteers to move from the 3:00 p.m. to 11:00 p.m. swing shift to the 6:00 a.m. to 4:00 p.m. day shift. It was stated that if no volunteers came forward that Defendant would unilaterally assign one or more Deputy Marshals to go to day shift from swing shift. Nobody volunteered.

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1 16. In July or August 2021 Defendant assigned Tony Ornelas to move to day shift from swing shift.
2 Ornelas quit his job.

3 17. After Ornelas quit instead of going to day shift Defendant, knowing about Plaintiff's service-
4 connected disability that affects his sleep, attempted to involuntarily assign Plaintiff to the day
5 shift.

6 18. Plaintiff complained and also grieved the reassignment through his union because such
7 reassignment was improper due to Plaintiff's seniority under the union contract.

8 19. The Plaintiff's grievance, although grounded on the provisions of the union contract,
9 constituted protected opposition to disability discrimination because Defendant knew that he
10 needed to work swing shift due to his sleep problems from his service-connected PTSD
11 disability. It is very important that he maintain his sleep pattern and not change it so as not to
12 aggravate his disability. Plaintiff was requesting to stay on swing shift as a reasonable
13 accommodation under the ADA and NRS Chapter 613.

14 20. While the grievance was pending in about the third week of September 2021, Sergeant Winters,
15 Plaintiff's direct supervisor made a comment at a briefing that "Gather [Plaintiff] got into an
16 argument with a person at CCDC [the county jail]" She said to Plaintiff, "you never get along
17 with anyone." She also said in reference to this matter and in a very sarcastic tone, **"must be
18 your PTSD messing with you!"** This statement reflects a discriminatory attitude toward
19 Plaintiff due to his disability. As set forth herein Sergeant Winters' discriminatory attitude was
20 spread to others in the workplace and has caused discriminatory stereotypes to be improperly
21 and unfairly applied to Plaintiff by his co-workers and his superiors. This has resulted in adverse
22 employment actions and harassment based on Plaintiff's disability.

23 24 25 26 27 28
21. Plaintiff prevailed on the grievance. After the Grievance Captain Mike Bunch sarcastically asked
Plaintiff, **"are you happy to get to stay on swing shift?"** Captain Bunch had been told by

1 Plaintiff, in the presence of Paul Yin, that Plaintiff had health reasons that required the
2 accommodation of working swing shift instead of day shift because of his sleep schedule that
3 cannot be disrupted without adversely affecting his disability.

4 22. One day after Plaintiff prevailed on his grievance, Defendant abruptly did away with swing shift
5 altogether to force Plaintiff to go to day shift. This action was retaliatory and discriminatory.
6 In addition to the discriminatory effect on his disability, this also had adverse economic
7 consequences and lowered Plaintiff's pay.
8

9 23. Meanwhile Tony Ornelas, the employee who quit rather than move to day shift involuntarily
10 informed Plaintiff that Captain Mike Bunch told him that swing shift might come back and
11 asked if Ornelas would come back to work for Defendant if swing shift did return. Ornelas said
12 yes that he would come back. George White, another employee, has been bragging that swing
13 shift will come back and that he, Mr. White, will get it. He said it to Juan Rivera and also Paul
14 Yin was told that George White would get swing shift. The implication and inference to be
15 drawn is that once Defendant finally finds a way to fire Plaintiff that the swing shift will be
16 restored. The swing shift was eliminated with the intent of discriminating against and retaliating
17 against Plaintiff and once Plaintiff is terminated the swing shift will return.
18

19 24. On October 7, 2021, one week after the retaliation against Plaintiff for his opposition to
20 discrimination and request for the reasonable accommodation of staying on swing shift, Plaintiff
21 was placed on paid administrative leave being accused of being a hazard and hostile in the
22 workplace. Specifically, it was stated that Plaintiff's had committed "behavior creating a safety
23 hazard" and that he engaged in "unprofessional conduct." This related to Plaintiff muttering
24 "this is bullshit" to himself in response to the provocation of Defendant forcing him to day shift
25 by eliminating swing shift entirely for everyone and for crossing out October and writing
26 "Fucktober" on his personal calendar that he kept hidden under his computer keyboard out of
27
28

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1 sight of others, also in response to the provocation of aggravating his disability by forcing him
2 to day shift. Although he kept the calendar hidden, and it was his own personal calendar,
3 somehow someone saw it and mentioned it.

4 25. Plaintiff continues to be on administrative leave as of the date of this Complaint. He has not
5 been allowed to work since October 2021, a period of nearly ten months.

6 26. It must be remembered that by the time he was suspended and placed on administrative leave
7 his co-workers and superiors were applying stereotypes to Plaintiff based on his PTSD service-
8 connected disability. Several of his co-workers are believed to have written adverse statements
9 against him, apparently at the behest of Sergeant Winters and other of Plaintiff's superiors.
10 These adverse statements expressly state, insinuate, or imply that Plaintiff is mentally unstable
11 because of his PTSD disability and is somehow dangerous and unreliable. These statements are
12 defamatory and false and a product of discriminatory animus and stereotyping. Plaintiff has
13 worked at his job for 15 years without significant problems caused by his disability and only
14 after he disclosed his condition to his supervisor and she made comments to others about his
15 having PTSD, did Plaintiff somehow become considered unfit for his job and a "safety hazard."

16 27. Plaintiff is being subjected to a hostile work environment and harassed by his supervisor and his
17 co-workers. Defendant knows of this harassment and not only fails to prevent or promptly
18 correct the harassment, the Defendant is condoning the harassment and its management is
19 actively participating in it. The harassment is severe or pervasive and it is adversely impacting
20 the Plaintiff's ability to do his job. Indeed the Defendant has suspended Plaintiff from working
21 for approximately 10 months as part of the harassment. This is an adverse employment action.

22 28. The harassment continues to this day with the Defendant most recently opening an Internal
23 Affairs investigation against Plaintiff again expressly and/or impliedly stating that Plaintiff is too
24 dangerous to be in the workplace based upon his PTSD disability. This is based upon one of
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1 the Defendant's managers, supervisors, or employees surreptitiously recording Plaintiff having a
2 private conversation with his wife wherein he was complaining to her about the harassment,
3 discrimination, and retaliation he was receiving including the false and defamatory statements by
4 some of his co-workers and his desire to see that there would be some redress against them for
5 this discrimination, harassment, retaliation, and defamation. The Defendant and the individuals
6 involved may be liable under Chapter 119 of Title 18 of the United States Code or NRS 200.610
7 *et seq.* And Plaintiff reserves the right to supplement or amend this Complaint under Rule 15 of
8 the applicable civil procedure rules or to bring a separate independent action against those
9 responsible for the violation of state or federal law in this regard.
10

11 29. The Plaintiff is being harassed, discriminated against and retaliated against in violation of the
12 ADA and NRS Chapter 613. He is being denied the accommodation of working a schedule that
13 is compatibly with his service-connected disability that affects his major life activity of sleeping.
14 The harassment and discriminatory and retaliatory treatment of Plaintiff by the Defendants was
15 and is because of or on account of, in whole or in part, the Plaintiff's disability and his
16 opposition to the discrimination. The conduct that Plaintiff suffered was and is a continuing
17 violation of the ADA and NRS Chapter 613.
18

19 30. Defendant subjected Plaintiff to different, unequal and discriminatory treatment which included
20 but was not limited to increased scrutiny of Plaintiff's work or behavior, humiliating and
21 condescending treatment, derogatory comments, and undermining and subversion of Plaintiff's
22 attempts to remedy the discrimination. There has been harassment and a hostile work
23 environment created. This different, unequal and discriminatory treatment in his employment
24 was on account of and directly connected with or related to Plaintiff's disability
25

26 31. Defendants are required to comply with statutes prohibiting disability discrimination,
27 harassment, and retaliation for opposing what Plaintiff reasonably believes to be conduct
28

violating state and federal anti-discrimination statutes.

32. Plaintiff timely dual-filed his Charge of Discrimination, #487-2022-00486, with the U.S. Equal Employment Opportunity Commission (EEOC) and the Nevada Equal Rights Commission (NERC) pursuant to the operative worksharing agreement in place between the two agencies and the applicable statutes. Plaintiff has exhausted all required administrative avenues. EEOC Charge No. 487-2022-00486 is incorporated here by reference as if fully set forth herein. EEOC issued a Notice of Suit Rights on May 9, 2022 and Plaintiff received it in the mail on approximately May 13, 2022. This action was timely filed.

33. Plaintiff seeks extraordinary and equitable relief as provided by the anti-discrimination statutes including, but not limited to, an order reinstating him so that he may work.

34. Plaintiff reserves the right to supplement or amend this Complaint should further discrimination, harassment, or retaliation including the potential termination of his employment take place.

CLAIMS FOR RELIEF

FIRST CLAIM: HOSTILE WORK ENVIRONMENT AND HARASSMENT UNDER THE AMERICANS WITH DISABILITIES ACT.

All other pertinent paragraphs and allegations set forth in this pleading are incorporated herein by this reference as though fully set forth.

35. Plaintiff was subjected to unwelcome and unlawful harassment.

36. The harassment was based on Plaintiff's disability.

37. The harassment was so severe or pervasive as to alter the conditions of Plaintiff's employment and create a hostile or abusive working environment.

38. The Defendant is strictly liable for the harassment inflicted by its managers and supervisors.

39. The Defendant was negligent in not taking steps to prevent or promptly correct the unlawful

1 harassment by Plaintiff's co-workers even though Defendant was on notice and informed of
2 the unlawful harassment.

3 40. Plaintiff suffered and continues to suffer tangible adverse employment actions including, but
4 not limited to, harassing and retaliatory investigations and suspension from working his job,
5 and the deliberate changing of Plaintiff's work schedule when Defendant knows that it will
6 aggravate Plaintiff's disability.

7
8 41. Plaintiff perceived his working environment to be abusive or hostile as would a reasonable
9 person in Plaintiff's circumstances. The hostile work environment was severe or pervasive
10 and altered the terms and conditions of Plaintiff's employment.

11 42. This illegal and hostile environment made it more difficult for Plaintiff to do his job, affected
12 his work performance, his work-place well-being, and his mental state.

13 43. Defendant had actual and constructive knowledge of the intolerable conditions and
14 discrimination to which Plaintiff was subjected, but chose not to remedy the situation.

15 44. These actions constitute violations of federal law prohibiting race discrimination, The
16 Americans With Disabilities Act as amended, and Nevada state law, NRS 613.310 et seq.

17 45. Plaintiff has suffered economic loss as a result of this illegal disability harassment
18 discrimination and is entitled to recover an amount sufficient to make him whole.

19 46. Plaintiff is entitled to reinstatement, back pay, front pay in lieu of reinstatement, and any
20 other monetary and equitable remedies contemplated by state and federal anti-discrimination
21 laws.

22 47. Plaintiff has suffered emotional distress, embarrassment, humiliation, harm to his
23 professional reputation and character, and mental anguish and is entitled to be compensated
24 for those inflictions under the aforementioned federal and state statutes.
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1 48. As a result of Defendants' acts described in this Complaint, Plaintiff has been forced to
 2 engage the services of an attorney and expend costs to pursue and protect his rights under the
 3 law.

4 49. Defendants have acted with malice, fraud or oppression and a conscious disregard of
 5 Plaintiff's rights.
 6

7 **SECOND CLAIM: HOSTILE WORK ENVIRONMENT AND HARASSMENT UNDER**
 8 **NRS CHAPTER 613.**

9 All other pertinent paragraphs and allegations set forth in this pleading are incorporated herein by this
 10 reference as though fully set forth.

11 50. The Supreme Court of Nevada holds that to the extent they are compatible Nevada's state
 12 anti-discrimination statutes are construed consistently with their federal law analogs. *Pope v.*
 13 *MOTEL 6*, 114 P.3d 277, 121 Nev. 307 (2005); *Copeland v. Desert Inn Hotel*, 99 Nev. 823,
 14 673 P.2d 490 (1983); *Apeceche v. White Pine Co.*, 96 Nev. 723, 615 P.2d 975 (1980).
 15 Accordingly, the same allegations as made in the FIRST CLAIM above are equally
 16 applicable to this claim.

17 51. Defendant's conduct complained of herein created and continues to perpetuate a hostile work
 18 environment and harassment against the Plaintiff in violation of NRS 613.330.

19 52. Plaintiff is entitled to the remedies provided by NRS 613.432.

20 **THIRD CLAIM: FAILURE TO ACCOMMODATE UNDER THE AMERICANS WITH**
 21 **DISABILITIES ACT.**

22 All other pertinent paragraphs and allegations set forth in this pleading are incorporated herein by this
 23 reference as though fully set forth.
 24

25 53. Plaintiff was and is a qualified person with a disability. Plaintiff has a physical or mental
 26 condition that limits him in one or more of his major life activities. This includes, but is not
 27 limited to, his ability to sleep at times other than what he is accustomed to without aggravating
 28

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his disability. The limitations of his disability do not prevent Plaintiff from performing the essential functions of his job with an accommodation. Plaintiff was capable of performing all of the essential functions of his job with the Defendant with or without a reasonable accommodation. He has years of experience in the field and type of work that he was hired to perform for Defendant.

54. There were one or more reasonable accommodations that would permit the Plaintiff to perform the essential functions of his employment. This specifically included providing job restructuring or a specified schedule—specifically the swing shift schedule that Plaintiff had been working for a long period of time. Schedule modifications are expressly recognized as reasonable accommodations under the ADA.

55. Rather than providing this reasonable accommodation, Defendant took willful and deliberate steps to ensure that Plaintiff would not be able to work the shift necessary to accommodate his disability. Defendants failed to provide a reasonable accommodation and failed to engage in good faith in the required individualized interactive process to determine a reasonable accommodation.

56. Plaintiff's was subjected to discriminatory, retaliatory, and harassing investigations and suspension from working his job by Defendant in whole or in part because of the Plaintiff's disability.

57. Plaintiff was discriminated against in the terms, conditions, or privileges of employment by Defendant in violation of 42 U.S.C. § 12112.

58. The reasonable accommodation needed and requested by Plaintiff would not have constituted an undue hardship on the Defendant.

59. Plaintiff's employment under a reasonable accommodation would not have resulted in a direct threat to the health or safety of others.

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60. One or more reasonable and effective accommodations were requested by Plaintiff including, but not limited to, job restructuring and/or scheduling consideration.

61. Plaintiff was capable of performing all of the essential functions of his job with Defendant either with or without a reasonable accommodation.

62. The Defendant breached its statutory legal duty to engage in a good faith interactive process with Plaintiff to determine and implement a reasonable and effective accommodation.

63. Plaintiff suffered lost wages, lost benefits of employment, suffered emotional distress, mental anguish, embarrassment, humiliation, damage to his professional reputation and character, and other general and compensatory damages in amounts to be determined at trial.

64. Defendant's actions were undertaken with knowing or reckless disregard for Plaintiff's rights under the ADA.

65. Plaintiff is entitled to all remedies available under the Americans With Disabilities Act, as amended.

FOURTH CLAIM: FAILURE TO ACCOMMODATE UNDER NRS CHAPTER 613.

All other pertinent paragraphs and allegations set forth in this pleading are incorporated herein by this reference as though fully set forth.

66. The Supreme Court of Nevada holds that to the extent they are compatible Nevada's state anti-discrimination statutes are construed consistently with their federal law analogs. *Pope v. MOTEL 6*, 114 P.3d 277, 121 Nev. 307 (2005); *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 673 P.2d 490 (1983); *Apeceche v. White Pine Co.*, 96 Nev. 723, 615 P.2d 975 (1980). Accordingly, the same allegations as made in the THIRD CLAIM above are equally applicable to this claim.

67. Defendant's conduct complained of herein constitutes an unlawful failure to provide a reasonable accommodation to the Plaintiff in violation of NRS 613.330.

68. Plaintiff is entitled to the remedies provided by NRS 613.432.

FIFTH CLAIM: RETALIATION UNDER NRS 613.340

All other pertinent paragraphs and allegations set forth in this pleading are incorporated herein by this reference as though fully set forth.

69. The Supreme Court of Nevada holds that to the extent they are compatible Nevada's state anti-discrimination statutes are construed consistently with their federal law analogs. *Pope v. MOTEL 6*, 114 P.3d 277, 121 Nev. 307 (2005); *Copeland v. Desert Inn Hotel*, 99 Nev. 823, 673 P.2d 490 (1983); *Apeceche v. White Pine Co.*, 96 Nev. 723, 615 P.2d 975 (1980).

70. Plaintiff continues to demand a reasonable accommodation of continuing to work the swing shift schedule to avoid aggravating the symptoms of his disability which would come from disruptions of his sleep schedule by changing to day shift. His demands, which included winning a union grievance on the subject constituted protected activity under the Americans with Disabilities Act of 1990 (ADA) as amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) and NRS 613.330 and NRS 613.340.

71. Plaintiff further has engaged in the protected activity of filing Charge No. 487-2022-00486 with the United States Equal Employment Opportunity Commission (EEOC).

72. Defendant knows of and is aware of Plaintiff's protected activities.

73. Defendant's tangible adverse employment actions of unfairly and unlawfully harassing Plaintiff by investigating Plaintiff for matters related to his disability and protected activities, deliberately sabotaging and eliminating the entire swing shift immediately after Plaintiff won a union grievance, thereby avoiding Defendant's harassing unilateral involuntary transfer of Plaintiff to day shift, and the suspension of Plaintiff from doing his job for nearly 10 months

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1 so far was because of Defendant's retaliation for Plaintiff asserting and pursuing his rights
2 and opposing Defendant's failure to provide him with a reasonable accommodation under the
3 ADA and NRS Chapter 613.

4 74. Defendant's actions were of a kind that would be likely to discourage or dissuade its
5 employees from asserting their rights under state or federal law or from opposing
6 Defendant's unlawful conduct under the ADA and NRS Chapter 613.

7
8 75. Defendant's actions were retaliatory, illegal, and actionable under the ADA and NRS
9 Chapter 613.

10 76. Plaintiff suffered mental anguish, embarrassment, shame, loss of reputation, emotional
11 distress, and other general and compensatory damages as a direct and proximate result of
12 Defendant's actions.

13 77. Plaintiff has suffered and will suffer lost wages and/or benefits as a direct and proximate
14 result of the actions of the Defendant.

15 78. The actions of the Defendant were willful, malicious, fraudulent, or oppressive, or in
16 reckless disregard of Plaintiff's rights under the ADA and NRS Chapter 613 and calculated
17 to discourage Plaintiff and other of Defendant's employees from pursuing their rights under
18 federal and state law.

19 79. Plaintiff should be reinstated to his position with all wages, benefits, and seniority restored as
20 though the unlawful and tortious actions of Defendant had never occurred.

21 80. Plaintiff is entitled to all remedies available under NRS 613.432.

22 81. Plaintiff has been required to hire an attorney and expend fees and costs to pursue his rights
23 through this action.
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1. For all applicable remedies available under the state and federal statutes applicable to this case as well as all remedies available under Nevada state common law;
2. For actual and compensatory damages in an amount to be determined by a jury at trial;
3. For general damages in an amount to be determined by a jury at trial;
4. For nominal damages if that be all that is allowed;
5. For Attorney's fees;
6. For costs of suit;
7. For pre-judgment interest;
8. For additional amounts of money to offset and ameliorate any undue adverse tax consequences that may arise from the awards made to Plaintiff in this action;
7. For a trial by jury of all issues that may be tried to a jury;
8. For declaratory, equitable, and/or injunctive relief as set forth herein including an order of reinstatement or for hiring or promotion or front pay in lieu of reinstatement, hiring or promotion should the court find that reinstatement, hiring or promotion is not feasible under the facts and circumstances of the case;
9. For such other and further relief as the court may deem just and equitable.

/s/ James P. Kemp
JAMES P. KEMP, ESQUIRE
 Nevada Bar No. 006375
KEMP & KEMP
 7435 W. Azure Drive, Suite 110,
 Las Vegas, NV 89130
 (702) 258-1183/ (702) 258-6983 (fax)
 jp@kemp-attorneys.com
 Attorney for Plaintiff

EXHIBIT B

7/25/2022 11:53 AM

SUMM

DISTRICT COURT
CLARK COUNTY, NEVADA

GATHER COHEN,

Plaintiff,

vs.

CITY OF NORTH LAS VEGAS, a Municipa;
 Corporation and political subdivision os the
 State of Nevada; DOES I-X,

Defendants.

Case No.: A-22-855845-C

Dept. No. 29

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD
 UNLESS YOU RESPOND WITHIN 20 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT(S): A civil Complaint has been filed by the Plaintiff(s) against you for the relief set forth
 in the Complaint.

**CITY OF NORTH LAS VEGAS, a Municipal Corporation and political subdivision of the State of
 Nevada**

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you, exclusive of the day of service, you must do the following:
 - (a) File with the Clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court, with the appropriate filing fee.
 - (b) Serve a copy of your response upon the attorney whose name and address is shown below.
2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this Summons within which to file an answer or other responsive pleading to the Complaint.

Submitted by:

JAMES P. KEMP, ESQ.

Nevada Bar No. 006375

KEMP & KEMP

7435 W. Azure Drive, Suite 110

Las Vegas, Nevada 89130

(702) 258-1183

CLERK OF COURT

By:

Deputy Clerk

7/25/2022

Date

Demond Palmer

Attorney for Plaintiff

NOTE: When service is by publication, add a brief statement of the object of the action.

See Rules of Civil Procedure 4(b).

STATE OF _____)
)ss:
 COUNTY OF _____)

AFFIDAVIT OF SERVICE

_____, being duly sworn, says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, _____

on the _____ day of _____, 20____ and served the same on the _____ day of _____, 20____ by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the Defendant _____ at (state address) _____
2. Serving the Defendant _____ by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at the Defendant's usual place of abode located at: (state address) _____

(Use paragraph 3 for service upon agent, completing A or B)

3. Serving the Defendant _____ by personally delivering and leaving a copy at (state address) _____
 - a. With _____ as _____, an agent lawfully designated by statute to accept service of process;
 - b. With _____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.
4. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):
 - _____ Ordinary mail
 - _____ Certified mail, return receipt requested
 - _____ Registered mail, return receipt requested

addressed to the Defendant _____ at Defendant's last known address which is (state address) _____

COMPLETE ONE OF THE FOLLOWING:

- (a) If executed in this state, "I declare under penalty of perjury that the foregoing is true and correct."

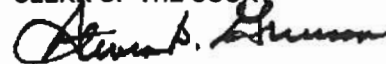
 Signature of person making service

- (b) If executed outside of this state, "I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct."

 Signature of person making service

7/25/2022 11:53 AM

Electronically Filed
8/3/2022 4:34 PM
Steven D. Grierson
CLERK OF THE COURT



SUMM

DISTRICT COURT
CLARK COUNTY, NEVADA

GATHER COHEN,

Plaintiff,

vs.

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Corporation and political subdivision os the
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Defendants.

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Dept. No. 29

SUMMONS

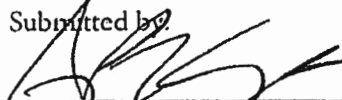
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Submitted by:


JAMES P. KEMP, ESQ.
Nevada Bar No. 006375
KEMP & KEMP
7435 W. Azure Drive, Suite 110
Las Vegas, Nevada 89130
(702) 258-1183

CLERK OF COURT

7/25/2022

By:

Deputy Clerk

Date

Demond Palmer

AFFIDAVIT OF SERVICE

Job # 18698

Client Info:

KEMP & KEMP, ATTORNEYS AT LAW
7435 W AZURE DR., SUITE 110
Las Vegas, NV 89130

Case Info:

Plaintiff:

GATHER COHEN,
-versus-

Defendant:

CITY OF NORTH LAS VEGAS, a Municipal Corporation and political
subdivision of the State of Nevada; DOES I-X,

Issuance Date: 7/26/2022 Court Case # **A-22-855845-C**

District Court
Court Division: Dept. No.: 29
County of Clark, Nevada

Service Info:

Date Received: 7/26/2022 at 09:16 AM

Service: I Served **CITY OF NORTH LAS VEGAS**, a Municipal Corporation and political subdivision of the State of Nevada
With: **Summons and Complaint**
by leaving with **daisy R, RECEPTIONIST - AUTHORIZED TO ACCEPT**

At Business **JOHN J. LEE, MAYOR OF THE CITY OF NORTH LAS VEGAS C/O MICAELA R. MOORE 2250 LAS VEGAS
BOULEVARD NORTH NORTH LAS VEGAS, NV 89030**
Latitude: **36.200478**, Longitude: **-115.121506**

On **8/3/2022** at **02:41 PM**

Manner of Service: GOVERNMENT SERVICE

Government Service was performed on **CITY OF NORTH LAS VEGAS**, a Municipal Corporation and political subdivision of the State of Nevada, by delivering a true copy of this **Summons and Complaint**, with the date and hour of service endorsed thereon by me, to **daisy R** as **RECEPTIONIST - AUTHORIZED TO ACCEPT**, an agent lawfully designated by statute to accept service of process.

Served Description: (Approx)

Age: **45**, Sex: **Female**, Race: **Hispanic**, Height: **5' 6"**, Weight: **200**, Hair: **Black** Glasses: **No**

I **Jacqueline T. Kohler**, acknowledge that I am authorized to serve process, in good standing in the jurisdiction wherein the process was served and I have no interest in the above, action. Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Signature of Server: _____

Jacqueline T. Kohler

Lic # **R-097043**

LV Process and Investigations, LLC

License #2039

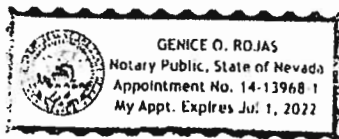
7181 N. Hualapai Way Suite 130-9

Las Vegas, NV 89166

Phone: (702) 592-3283

Our Job # **18698** Client Ref # **COHEN**

SUBSCRIBED AND SWORN to before me this 3 day of August, 2022 by Jacqueline Kohler
Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



NOTARY PUBLIC for the state of Nevada

